

1
Misc. Case- 268 of 2020

Order dated: 14.05.2025

Record is fixed for passing order.

Both the parties filed their respective haziras.

DIR has been received by this Court.

Now, the record is taken up for passing order in respect of petition under section 23 of the Protection of Women from Domestic Violence Act, 2005.

The petitioner's case in brief is that the petitioner got married with Rakesh Sinha on 15.07.2018 as per Hindu Rites and Customs. At the time of marriage, the parents of the petitioner gave cash, gold ornaments, silver ornaments, utensils, clothing, furniture, electronic and other household articles as stridhan as per the demand of the respondents. After marriage, the petitioner went to her matrimonial home with respondent no. 1 to lead her conjugal life. After few days of marriage, the petitioner was put to torture because she did not bring dowry as per the satisfaction of in-laws. In the month of October 2018, husband took her to Thailand in the name of honeymoon where several times, she was beaten with fist and blows in the hotel room by the respondent no. 1 and also started to insult the petitioner in front of staffs and guest of the said hotel when the petitioner protested, the respondent no. 1 became violent and beaten her mercilessly and she received sustained injury. All of a sudden in the month of December 2018, the respondent no. 1 along with in-laws packed their bag and baggage when the petitioner asked them where they were going then her mother-in-law started shouting and told the petitioner that she has no right to ask any question and they left the matrimonial home. Thereafter, they returned after 10 to 15 days, her husband started to beat with fist and blow and pushed the petitioner and she fell down and as a result, she received sustained injury in different parts of body and also fractured her ring finger. After few days, the brother-in-law forcefully entered into the room of the petitioner and attempted to outrage her modesty. Thereafter, the petitioner went to her parental home and informed the entire incident to her elder brother who called the petitioner's husband over the phone and requested him. The petitioner returned to the matrimonial house after few days again they started torture upon the petitioner and in the month of March 2020, the respondents ousted the petitioner from the matrimonial home without any belongings and compelled her to rush parental house. The respondent no. 1 is an M.B.A and he earns more than Rs. 80,000/- per month from his job and the petitioner has no source of income.

The petitioner has prayed for interim maintenance relief of Rs. 25,000/- per month herself and Rs. 2,00,000/- as a compensation cost from the respondents.

The petitioner has filed her Affidavit of Assets and Liabilities which is also perused by this court wherein the petitioner has stated that she has no source of income of

2
Misc. Case- 268 of 2020

her own.

The opposite parties have filed written objection and also filed his Affidavit of assets and liabilities. By filling the written objection the respondents have rebuffed the whole case of the aggrieved person as a pack of lies. Respondent no. 1 admitted the fact of marriage but denied all the allegations of the petitioner. The respondent no.1 stated that the petitioner is a quarrelsome, arrogant lady and always used filthy language upon the respondent no. 1 and in-laws and she is living separately from her husband with her own will and she refused to live with husband. The respondent no.1 further stated that the petitioner is doing job in a private sector and she earns Rs. 25,000/- per month from the said job.

The definition of domestic violence as jotted down in Section 3 of the said Act is very wide in its scope. It takes within its fold different acts including physical abuse, sexual abuse, verbal and emotional abuse and economic abuse. Now, the question that crops up is whether the allegations as outlined in the petition make out a case as presented by the petitioner before this court or not. What would be the standard of proof at this stage of interim hearing regarding the allegations stated in the application?

Section 23 of the Act provides that the magistrate has to satisfy himself as regards the existence of a prima-facie case in the factual set-up projected by the petitioner/applicant on the basis of an affidavit. In its literal sense, 'prima facie' means on the face of it. The expression 'prima facie' is often used in common parlance to mean 'on first blush' or 'on first impression', without deriving a conclusive meaning. Therefore, if the allegations depicted in the application make out a case that falls among any of the category mentioned above, the court would then have to pass an order keeping in mind the object for which the Act was enacted. The tangled factual questions that have surfaced in the instant case from the pleadings of the contending parties would be dealt with according to the evidence led by the parties during trial. But, the legislative mandate as reflected under section 23 should be Honoured by the court so far as the interim relief is concerned. The facts narrated in the application supported by the affidavit and the DIR *prima facie* show that the applicant was subjected to physical abuse, verbal and emotional abuse and economic abuse at the hands of the respondent.

Thus, keeping in view the benevolent nature of the Act, the provisions under the act should be interpreted broadly. In **Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation, (1985) II LLJ 539** the Hon'ble Supreme Court observed:-

"The principles of statutory construction are well-settled. Words occurring in statutes of liberal import, such as social welfare legislations, and 'human rights'

3
Misc. Case- 268 of 2020

legislations, are not to be put in procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations, the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognized and reduced. Judges ought to be more concerned with the 'colour', 'content' and 'context' of such statutes".

Unless the contrary is shown by the respondent, the provision made in favour of the women will be interpreted in their favour. Since the burden upon the victim of domestic violence is to show by way of an affidavit that she was subjected to domestic violence, the court would pass the order at the interim stage which appears to be justified and necessary. In the instant case, the petitioner has alleged that she was tortured by the respondent and she has filed an affidavit to that effect. She has thus met the terms of the requirement of law as contemplated under section 23 of the Act. That apart the contention of petitioner finds support by the domestic incident report submitted by the protection officer. The photocopies of the documents filed by parties cannot be relied on by this Court at this stage as they are required to be proved by relevant evidence.

In this case, the aggrieved person is the wife of the respondent and they lived their conjugal life in a shared household. It means that there is a domestic relationship between them.

It appears that both sides have filed their affidavit of assets and liabilities and the aggrieved person has stated in her petition as well as affidavit of assets and liabilities that she has no source of income of her own and that the respondent no. 1 is an M.B.A and he earns more than Rs. 80,000/- per month from his job. Whereas from the affidavit of assets and liabilities submitted by the respondent no.1 it appears that he earns Rs. 1,16,000/- per month.

The petitioner has prayed for monetary relief of Rs. 25,000/- per month from the date of filing of this case till the disposal of this case.

There is nothing to show herein that the aggrieved person has any income of her own to maintain herself, which disentitles her from claiming interim maintenance for herself during the pendency of the proceeding. No documents have been put forth before this Court by the respondent no.1/husband showing the income of the aggrieved person and so the facts remain as to who will look after the interests of the petitioner at this threshold stage of litigation. Therefore, this Court is of the opinion that respondent no.1/husband is required to look after the interests of the petitioner till the discord involved in this case is decided.

From the above mentioned points it is clear that the petitioner is thus entitled to get an interim monetary relief from the respondent no.1. So, considering the above stated facts and circumstances as well as the hike in the market price, I am inclined to allow the prayer for interim monetary relief. Therefore, the petitioner is entitled to get a monthly monetary

4
Misc. Case- 268 of 2020

relief of Rs. 12,000/-(Rupees twelve thousand only) per month for herself from the date of filing of this case till the disposal of this case. This court is also inclined to hold that this amount is sufficient for her maintenance as per her status, situation and social condition and it will also not prejudice to the opposite party no.1 at this stage.

It appears that the petitioner has prayed for protection order against the respondents restraining them from committing any act of domestic violence in future. On perusal of the record it prima facie appears that she was subjected to domestic violence by the respondents at her matrimonial home. In this circumstances the Court is of the opinion that to protect the petitioner from any act of domestic violence in future, interim protection order is required to be passed in favour of the aggrieved.

Hence it is

O R D E R E D

that the instant interim petition is **allowed** on contest in part without any order as to costs.

The petitioner does get an order U/S 23 towards monthly monetary relief of Rs. Rs. 12,000/-(Rupees twelve thousand only)per month for herself from the date of filing of this case i.e. 05.09.2020 and until further order and such interim relief to be paid by opposite parties within every 10th day of every succeeding English calendar month, failing which the petitioner would be at liberty to execute the order so passed.

The respondents are restrained from committing any act of domestic violence upon the petitioner. The other reliefs as prayed for by the petitioner which are not discussed above are rejected at this stage and will be considered after going through the evidence of this case.

The Inspectors-in-charge of IC of Bantra PS, District Howrah and IC of Lake Town P.S, Kol -55 are hereby directed to provide all necessary legal assistance to the petitioner so that the order passed herein be implemented by the respondent.

Let the copy of this order be handed over to the petitioner free of cost.

Let a copy of this order be also sent to the protection officer and IC of Bantra PS, District Howrah and IC of Lake Town P.S, Kol -55 for information and compliance.

Fix **08.09.2025** for evidence of 1st party.

D/C by me.

Sarmistha Bose, (JO Code WB01187)

J.M. 3rd Court, Howrah

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